

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

LOTTIE CRUMP,

Plaintiff,

v.

FLUID HANDLING, LLC,
XYLEM, INC.,
GARY MAJCHRZAK and
MATTHEW KANDEFER,

Defendants.

REPORT AND RECOMMENDATION

17-CV-00045-LJV-JJM

Pursuant to Fed. R. Civ. P. 4(m), by Text Order dated April 18, 2018 [26] I ordered plaintiff to show cause by April 25, 2018 why the complaint should not be dismissed as to defendants Gary Majchrzak and Matthew Kandefer for failure to timely serve them with the Summons and Complaint. Since plaintiff has failed to respond to that Text Order, I recommend that the Complaint be dismissed as to those defendants, with prejudice.

Unless otherwise ordered by Judge Vilardo, any objections to this Report and Recommendation must be filed with the clerk of this court by May 10, 2018. Any requests for extension of this deadline must be made to Judge Vilardo. A party who “fails to object timely . . . waives any right to further judicial review of [this] decision”. Wesolek v. Canadair Ltd., 838 F. 2d 55, 58 (2d Cir. 1988); Thomas v. Arn, 474 U.S. 140, 155 (1985).

Moreover, the district judge will ordinarily refuse to consider *de novo* arguments, case law and/or evidentiary material which could have been, but were not, presented to the magistrate judge in the first instance. Patterson-Leitch Co. v. Massachusetts Municipal Wholesale Electric Co., 840 F. 2d 985, 990-91 (1st Cir. 1988).

The parties are reminded that, pursuant to Rule 72(b) and (c) of this Court's Local Rules of Civil Procedure, written objections shall "specifically identify the portions of the proposed findings and recommendations to which objection is made and the basis for each objection . . . supported by legal authority", and must include "a written statement either certifying that the objections do not raise new legal/factual arguments, or identifying the new arguments and explaining why they were not raised to the Magistrate Judge". Failure to comply with these provisions may result in the district judge's refusal to consider the objections.

Dated: April 26, 2017

/s/ Jeremiah J. McCarthy
JEREMIAH J. MCCARTHY
United States Magistrate Judge